

REMARKS

Petition for Extension of Time Under 37 CFR 1.136(a)

It is hereby requested that the term to respond to the Examiner's Action of May 4, 2007 be extended three months, from August 4, 2007 to November 5, 2007 (November 4 being a Sunday).

Authorization to charge a Credit Card is given to cover the extension fee. The Commissioner is hereby authorized to charge any additional fees associated with this communication to Deposit Account No. 19-5425.

In the Office Action, the Examiner indicated that claims 1 through 22 are pending in the application and the Examiner rejected all of the claims.

The §112 Rejection

On page 2 of the Office Action, the Examiner has rejected claim 5 under 35 U.S.C. §112, second paragraph, as being indefinite. Applicant has amended the claims to include proper antecedent basis, and further to depend from claim 4, since the relevant portion of original claim 1 has been moved into the presently amended version of claim 4. Applicant believes that this amendment overcomes the rejection under 35 U.S.C. §112.

The §101 Rejection

On page 3 of the Office Action, the Examiner has rejected claim 22 under 35 U.S.C. §101 as being directed to non-statutory subject matter. Applicant has amended claim 22 in accordance with current US patent practice to claim a "computer program product" instead of "computer software". This addresses the Examiner's issue respecting claim 22 and overcomes the rejection under 35 U.S.C. §101.

Rejection of under 35 U.S.C. §§102 and 103

On page 3 of the Office Action, the Examiner rejected claims 1-8, 13-17, and 19-22 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,185,290 to Cadiz et al.

On page 8 of the Office Action, the Examiner has rejected claim 10 under 35 U.S.C. §103(a) as being unpatentable over Cadiz et al., and on page 9 of the Office Action, the Examiner has rejected claims 9, 11, 12, and 18 under 35 U.S.C. §103(a) as being unpatentable over Cadiz et al. in view of U.S. Patent No. 6,934,740 to Lawande et al.

The Cited Prior Art Does Not Anticipate the Claimed Invention

The MPEP and case law provide the following definition of anticipation for the purposes of 35 U.S.C. §102:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." (*Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987) M.P.E.P. §2131.

The Examiner Has Not Established a *Prima Facie* Case of Anticipation

The present invention is a method of providing data to a wireless information device, in which data supplied from a remote service provider is represented by an icon which is (a) automatically embedded and displayed within an application running on the device, and which (b) changes if the data alters, in order to alert the user to new data or to represent that new data.

Cadiz differs significantly from the claimed invention. Cadiz requires a "peripheral awareness interface" whereby containers are provided in or on the display of a particular

program, and these containers host “items” which include dynamic graphical images of some type. The containers are preferably displayed on a “sidebar” (a strip along the edge of the display) or covering a portion or all of the display in the case of smaller devices such as cell phones.

By way of contrast, in the claimed invention, data to be displayed from a remote service provider is automatically *embedded in* an application that is not dedicated to displaying data from a remote service provider, e.g., a calendar program. It does not require “containers” or a peripheral awareness interface, and is not placed on the side (in a side bar) or covering over the displayed image from an application; instead, it is actually embedded and displayed in the application itself. All of the claims include this aspect of the present invention neither taught nor suggested by Cadiz. Without such a teaching or suggestion, claims 1-8, 13-17, and 19-22 (and in fact, all of the claims) patentably define over Cadiz and are in condition for allowance. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 1-8, 13-17, and 19-22 under 35 U.S.C. §102(e).

The Examiner Has Not Established a Prima Facie Case of Obviousness

As set forth in the MPEP:

To support a rejection under 35 U.S.C. §103, a reason, suggestion, or motivation to lead an inventor to combine two or more references must be found. *Pro-Mold and Tool Co. v. Great Lakes Plastics Inc.*, 37 U.S.P.Q.2d 1627, 1629 (Fed.Cir. 1996). The Examiner has not met his burden in establishing a reason, suggestion, or motivation for combining the cited references.

As noted above, the independent claims patently define over Cadiz. The addition of Lawande does not supply the teachings that are missing from Cadiz. Accordingly, for the reasons set forth above, claims 9, 11, 12, and 18 are also allowable over Cadiz, both alone and combined with Lawande. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 9-12 and 18 under 35 USC §103.

Conclusion

The present invention is not taught or suggested by the prior art. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims. An early Notice of Allowance is earnestly solicited.

The Commissioner is hereby authorized to charge any fees associated with this communication to applicant's Deposit Account No. 19-5425.

Respectfully submitted

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Date

/Mark D. Simpson/
Mark D. Simpson, Esquire
Registration No. 32,942

SYNNESTVEDT & LECHNER LLP
1101 Market Street, Suite 2600
Philadelphia, PA 19107
Telephone: (215) 923-4466
Facsimile: (215) 923-2189